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IN THE

Supreme Court of the United States

OCTOBER TERM, 1945

No. 595

ANNA LEE SHELTON,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR WRIT OF CERTIORARI
To the United States Circuit Court of Appeals for the Sixth Circuit
and
BRIEF IN SUPPORT THEREOF

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London, Kentucky,
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LESLIE WHARTON PUBLISHER, CINCINNATI, OHIO

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To the Honorable Harlan Fiske Stone, Chief Justice, and the Associate Justices of the Supreme Court of the United States:

Your petitioner, Anna Lee Shelton, in support of her petition for a writ of certiorari to review the final judgment of the United States Circuit Court of Appeals for the Sixth Circuit entered on the 11th day of October, 1945, affirming her conviction of May 16, 1945, respectfully shows:

I
SUMMARY STATEMENT OF THE MATTERS INVOLVED

The Appellant, Anna Lee Shelton, was convicted on May 16, 1945 of possessing whiskey without the proper revenue stamps and was sentenced to one year at hard labor. See Transcript of Record, page 5. She was indicted on May 8, 1944, said indictment charging that on

the 12th day of December, 1943, in the Eastern District of Kentucky, one William M. Shelton, Anna Lee Shelton and Charlie Fenley Taylor unlawfully, willfully and feloniously did possess a quantity of distilled spirits, to-wit, 38 gallons more or less of whiskey without the immediate container thereof having affixed thereto a stamp denoting the quantity of the distilled spirits contained therein. On this indictment the jury returned a verdict of guilty and the petitioner was sentenced to one year in prison at hard labor.

Your petitioner appealed from the decision of the District Court to the United States Circuit Court of Appeals for the Sixth Circuit and on October 11, 1945, the Circuit Court of Appeals affirmed the judgment of the District Court and on the same day final judgment was rendered. See record, page 25.

II

JURISDICTION

(1) The date of the judgment to be reviewed is November 11, 1945, and this petition is filed within the time provided by law.

(2) The statutory provision which is believed to sustain the jurisdiction of this Court is Section 347 of Title 328 of the United States Code, (Acts of March 3, 1891, Chapter 517. Section 6, 26 Stat. 828; March 3, 1911, ch. 231, sec. 240, 36 Stat. 1157; February 13, 1925, ch. 229, sec. 1, 43 Stat. 938; January 31, 1928, ch. 14, sec. 1, 45 Stat. 54; June 7, 1934, ch. 426, 48 Stat. 926).

III

SPECIFICATION OF ERRORS

(1) The United States Circuit Court of Appeals erred in affirming the judgment of the District Court in over-

ruling defendant's motion to suppress the evidence herein, for the reason that said evidence was obtained by unlawful search and seizure in that it was procured by stopping defendant's automobile between Pineville and Corbin, Kentucky, and searching same when the agents for the Alcohol Tax Unit had no information that said automobile on said occasion was being used for the purpose of violating the law, that all of the information which the Government agents had is included in the statement of Investigator Scanlan and the further testimony of Investigator Howard. See Record, page 15, 16 and 17.

(2) The Court erred in refusing to require the witness, Chad Howard, in said case, to reveal the source of his information on which he made the search and arrest.

(3) The Court erred in not sustaining the motion of defendant to strike the evidence of said Chad Howard from the record.

(4) The Circuit Court of Appeals erred in affirming the District Court's refusal to grant a new trial on the ground that such information, if any, which the agents testified they had received was not against this appellant but against one William Shelton, the brother of this appellant and that the information obtained against William Shelton was not probable cause for searching the automobile driven by this appellant, that Article 6 of the Bill of Rights of the Constitution of the United States provides among other things that this defendant has a right to be faced with the witnesses who accuse her and that the effect of the Court's ruling in this case is to deny to this appellant her rights under Articles 4 and 6 of the Bill of Rights of the Constitution of the United States.

IV
REASONS RELIED ON FOR THE ALLOWANCE OF THE WRIT

(1) Article 4 of the Bill of Rights of the Constitution of the United States provides as follows:

> "The right of the people to secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The witnesses for the Government secured such information as they had against one William Shelton on October 22, 1943 and later on December 12, 1943, stopped and searched the car driven by this appellant without any information against this appellant and without probable cause for making said search and seizure, all in violation of the above Section of the Constitution of the United States.

(2) Article 6 of the Constitution of the United States provides as follows:

> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defense."

At the trial of appellant's case in the District Court, appellant through Counsel sought to learn the source of information about which Agent Howard testified and her

Constitutional rights were denied by the District Court in that she had no opportunity to be faced by the witness who accused her and to cross-examine said witness all in denial of the Constitutional rights of this appellant.

WHEREFORE, your petitioner prays that a writ of certiorari issue under the seal of this Court, directed to the United States Circuit Court of Appeals for the Sixth Circuit, commanding said Court to certify and send to this Court a full and complete transcript of the record and of the proceedings of the said United States Circuit Court of Appeals for the Sixth Circuit in the case numbered and entitled on its docket, No. 10,025, Anna Lee Shelton, Appellant, v. United States of America, Appellee, to the end that this cause may be reviewed and determined by this Court as provided for by the Statutes of the United States, and that the judgment herein of said Circuit Court of Appeals be reversed by this Court; and your petitioner further prays that the certified copy of the record and the proceedings of the United States Circuit Court of Appeals filed with this petition may be treated as a return to said writ of certiorari, and your petitioner prays that she may have such other and further remedies in the premises as to the Court may seem appropriate and in conformity with the law.

ANNA LEE SHELTON,
Petitioner,

By JOHN Y. BROWN,
Counsel for Petitioner.

Of Counsel:
SYLVESTER LITTLE.